



General Assembly

February Session, 2006

***Raised Bill No. 5779***

LCO No. 3021

\* \_\_\_\_HB05779INS\_\_031606\_\_ \*

Referred to Committee on Insurance and Real Estate

Introduced by:  
(INS)

***AN ACT INCREASING THE AVAILABILITY OF HEALTH INSURANCE  
FOR SMALL BUSINESSES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-569 of the 2006 supplement to the general  
2 statutes is repealed and the following is substituted in lieu thereof  
3 (*Effective October 1, 2006*):

4 (a) (1) There is established a nonprofit entity to be known as the  
5 "Connecticut Small Employer Health Reinsurance Pool". All insurers  
6 issuing health insurance in this state and insurance arrangements  
7 providing health plan benefits in this state on and after July 1, 1990,  
8 shall be members of the pool.

9 (2) On or before July 15, 1990, the commissioner shall give notice to  
10 all insurers and insurance arrangements of the time and place for the  
11 initial organizational meeting, which shall take place by September 1,  
12 1990. The members shall select the initial board, subject to approval by  
13 the commissioner. The board shall consist of at least five and not more  
14 than [nine] sixteen representatives of members. On and after October  
15 1, 2006, the Governor, the president pro tempore of the Senate, the

16 speaker of the House of Representatives, the majority leader of the  
 17 Senate, the majority leader of the House of Representatives, the  
 18 minority leader of the Senate and the minority leader of the House of  
 19 Representatives shall each appoint one individual who shall have  
 20 demonstrated sufficient knowledge by education, training or  
 21 experience in one or more of the following areas: Small employer  
 22 administration; federal and state health insurance statutes, policies and  
 23 regulations; health reinsurance pools; or contract negotiation,  
 24 administration or drafting. There shall be no more than two members  
 25 of the board representing any one insurer or insurance arrangement. In  
 26 determining voting rights at the organizational meeting, each member  
 27 shall be entitled to vote in person or by proxy. The vote shall be  
 28 weighted based upon net health insurance premium derived from this  
 29 state in the previous calendar year. To the extent possible, at least one-  
 30 third of the members of the board shall be domestic insurance  
 31 companies and at least two-thirds of the members of the board shall be  
 32 small employer carriers. At least one member of the board shall be a  
 33 health care center and at least one member shall be a small employer  
 34 carrier with less than one hundred million dollars in net small  
 35 employer health insurance premium in this state. The Insurance  
 36 Commissioner shall be an ex-officio member of the board. The net  
 37 premium amount shall be adjusted by the board periodically for health  
 38 care cost inflation. In approving selection of the board, the  
 39 commissioner shall assure that all members are fairly represented. The  
 40 membership of all boards subsequent to the initial board shall, to the  
 41 extent possible, reflect the same distribution of representation as is  
 42 described in this subdivision.

43 (3) If the initial board is not elected at the organizational meeting,  
 44 the commissioner shall appoint the initial board within fifteen days of  
 45 the organizational meeting.

46 (4) Within ninety days after the appointment of such initial board,  
 47 the board shall submit to the commissioner a plan of operation and  
 48 thereafter any amendments thereto necessary or suitable to assure the

49 fair, reasonable and equitable administration of the pool. The  
 50 commissioner shall, after notice and hearing, approve the plan of  
 51 operation provided he determines it to be suitable to assure the fair,  
 52 reasonable and equitable administration of the pool, and provides for  
 53 the sharing of pool gains or losses on an equitable proportionate basis  
 54 in accordance with the provisions of subsection (d) of this section. The  
 55 plan of operation shall become effective upon approval, in writing, by  
 56 the commissioner consistent with the date on which the coverage  
 57 under this section shall be made available. If the board fails to submit a  
 58 suitable plan of operation within one hundred eighty days after its  
 59 appointment, or at any time thereafter fails to submit suitable  
 60 amendments to the plan of operation, the commissioner shall, after  
 61 notice and hearing, adopt and promulgate a plan of operation or  
 62 amendments, as appropriate. The commissioner shall amend any plan  
 63 adopted by him, as necessary, at the time a plan of operation is  
 64 submitted by the board and approved by the commissioner.

65 (5) The plan of operation shall establish procedures for: (A)  
 66 Handling and accounting of assets and moneys of the pool, and for an  
 67 annual fiscal reporting to the commissioner; (B) filling vacancies on the  
 68 board, subject to the approval of the commissioner; (C) selecting an  
 69 administering insurer and setting forth the powers and duties of the  
 70 administering insurer; (D) reinsuring risks in accordance with the  
 71 provisions of this section; (E) collecting assessments from all members  
 72 to provide for claims reinsured by the pool and for administrative  
 73 expenses incurred or estimated to be incurred during the period for  
 74 which the assessment is made; and (F) any additional matters at the  
 75 discretion of the board.

76 (6) The pool shall have the general powers and authority granted  
 77 under the laws of Connecticut to insurance companies licensed to  
 78 transact health insurance and, in addition thereto, the specific  
 79 authority to: (A) Enter into contracts as are necessary or proper to  
 80 carry out the provisions and purposes of this section, including the  
 81 authority, with the approval of the commissioner, to enter into

82 contracts with programs of other states for the joint performance of  
 83 common functions, or with persons or other organizations for the  
 84 performance of administrative functions; (B) sue or be sued, including  
 85 taking any legal actions necessary or proper for recovery of any  
 86 assessments for, on behalf of, or against members; (C) take such legal  
 87 action as necessary to avoid the payment of improper claims against  
 88 the pool; (D) define the array of health coverage products for which  
 89 reinsurance will be provided, and to issue reinsurance policies, in  
 90 accordance with the requirements of this section; (E) establish rules,  
 91 conditions and procedures pertaining to the reinsurance of members'  
 92 risks by the pool; (F) establish appropriate rates, rate schedules, rate  
 93 adjustments, rate classifications and any other actuarial functions  
 94 appropriate to the operation of the pool; (G) assess members in  
 95 accordance with the provisions of subsection (e) of this section, and to  
 96 make advance interim assessments as may be reasonable and  
 97 necessary for organizational and interim operating expenses. Any such  
 98 interim assessments shall be credited as offsets against any regular  
 99 assessments due following the close of the fiscal year; (H) appoint from  
 100 among members appropriate legal, actuarial and other committees as  
 101 necessary to provide technical assistance in the operation of the pool,  
 102 policy and other contract design, and any other function within the  
 103 authority of the pool; and (I) borrow money to effect the purposes of  
 104 the pool. Any notes or other evidence of indebtedness of the pool not  
 105 in default shall be legal investments for insurers and may be carried as  
 106 admitted assets.

107 (b) Any member may reinsure with the pool coverage of an eligible  
 108 employee of a small employer, or any dependent of such an employee,  
 109 except that no member may reinsure with the pool coverage of an  
 110 eligible employee of a small employer, or any dependent of such an  
 111 employee, whose premium rates are not subject to section 38a-567, as  
 112 amended, pursuant to subdivision (22) of section 38a-567, as amended.  
 113 Any reinsurance placed with the pool from the date of the  
 114 establishment of the pool regarding the coverage of an eligible  
 115 employee of a small employer, or any dependent of such an employee

116 shall be provided as follows:

117 (1) (A) With respect to a special health care plan or a small employer  
 118 health care plan, the pool shall reinsure [the level of] coverage  
 119 [provided] not exceeding forty thousand dollars for each individual  
 120 claim from the premiums paid to the pool. With respect to each such  
 121 health care plan, the pool shall reinsure coverage exceeding forty  
 122 thousand dollars for each individual claim from the grant moneys  
 123 under section 3 of this act; (B) with respect to other plans, the pool  
 124 shall reinsure the level of coverage provided up to, but not exceeding,  
 125 the level of coverage provided in a small employer health care plan or  
 126 the actuarial equivalent thereof as defined and authorized by the  
 127 board; and (C) in either case, no reinsurance may be provided in any  
 128 calendar year for a reinsured employee or dependent until five  
 129 thousand dollars in benefit payments have been made for services  
 130 provided during that calendar year for that reinsured employee or  
 131 dependent, which payments would have been reimbursed through  
 132 said reinsurance in the absence of the annual five-thousand-dollar  
 133 deductible. The amount of the deductible shall be periodically  
 134 reviewed by the board and may be adjusted for appropriate factors as  
 135 determined by the board;

136 (2) With respect to eligible employees, and their dependents,  
 137 coverage may be reinsured: (A) Within such period of time after the  
 138 commencement of their coverage under the plan as may be authorized  
 139 by the board, or (B) commencing January 1, 1992, on the first plan  
 140 anniversary after the employer's coverage has been in effect with the  
 141 small employer carrier for a period of three years, and every third plan  
 142 anniversary thereafter, provided, commencing May 1, 1994,  
 143 reinsurance pursuant to this subparagraph shall only be permitted  
 144 with respect to eligible employees and their dependents of a small  
 145 employer which has no more than two eligible employees as of the  
 146 applicable anniversary;

147 (3) Reinsurance coverage may be terminated for each reinsured  
 148 employee or dependent on any plan anniversary;

149       (4) Reinsurance of newborn dependents shall be allowed only if the  
150 mother of any such dependent is reinsured as of the date of birth of  
151 such child, and all newborn dependents of reinsured persons shall be  
152 automatically reinsured as of their date of birth; and

153       (5) Notwithstanding the provisions of subparagraph (A) of  
154 subdivision (2) of this subsection: (A) Coverage for eligible employees  
155 and their dependents provided under a group policy covering two or  
156 more small employers shall not be eligible for reinsurance when such  
157 coverage is discontinued and replaced by a group policy of another  
158 carrier covering two or more small employers, unless coverage for  
159 such eligible employees or dependents was reinsured by the prior  
160 carrier; and (B) at the time coverage is assumed for such group by a  
161 succeeding carrier, such carrier shall notify the pool of its intention to  
162 provide coverage for such group and shall identify the employees and  
163 dependents whose coverage will continue to be reinsured. The time  
164 limitations for providing such notice shall be established by the pool.

165       (c) Except as provided in subsection (d) of this section, premium  
166 rates charged for reinsurance by the pool shall be established at the  
167 following percentages of the rate established by the pool for that  
168 classification or group with similar characteristics and coverage:

169       (1) One hundred fifty per cent, with respect to all of the eligible  
170 employees, and their dependents, of a small employer, all of whose  
171 coverage is reinsured in accordance with subdivision (2) of subsection  
172 (b) of this section; and

173       (2) Five hundred per cent, with respect to an eligible employee or  
174 dependent who is individually reinsured in accordance with  
175 subdivision (2) of subsection (b) of this section and is not reinsured  
176 with all eligible employees of an employer and their dependents.

177       (d) Premium rates charged for reinsurance by the pool to a health  
178 care center which is approved by the Secretary of Health and Human  
179 Services as a health maintenance organization pursuant to 42 USC 300

180 et seq., and as such is subject to requirements that limit the amount of  
181 risk that may be ceded to the pool, may be modified by the board, if  
182 appropriate, to reflect the portion of risk that may be ceded to the pool.

183 (e) (1) Following the close of each fiscal year, the administering  
184 insurer shall determine the net premiums, the pool expenses of  
185 administration and the incurred losses for the year, taking into account  
186 investment income and other appropriate gains and losses. For  
187 purposes of this section, health insurance premiums earned by  
188 insurance arrangements shall be established by adding paid health  
189 losses and administrative expenses of the insurance arrangement.  
190 Health insurance premiums and benefits paid by a member that are  
191 less than an amount determined by the board to justify the cost of  
192 collection shall not be considered for purposes of determining  
193 assessments. For purposes of this subsection, "net premiums" means  
194 health insurance premiums, less administrative expense allowances.

195 (2) Any net loss for the year shall be recouped by assessments of  
196 members. (A) Assessments shall first be apportioned by the board  
197 among all members in proportion to their respective shares of the total  
198 health insurance premiums earned in this state from health insurance  
199 plans and insurance arrangements covering small employers during  
200 the calendar year coinciding with or ending during the fiscal year of  
201 the pool, or on any other equitable basis reflecting coverage of small  
202 employers as may be provided in the plan of operations. An  
203 assessment shall be made pursuant to this subparagraph against a  
204 health care center, which is approved by the Secretary of Health and  
205 Human Services as a health maintenance organization pursuant to 42  
206 USC 300e et seq., subject to an assessment adjustment formula adopted  
207 by the board and approved by the commissioner for such health care  
208 centers which recognizes the restrictions imposed on such health care  
209 centers by federal law. Such adjustment formula shall be adopted by  
210 the board and approved by the commissioner prior to the first  
211 anniversary of the pool's operation. (B) If such net loss is not recouped  
212 before assessments totaling five per cent of such premiums from plans

213 and arrangements covering small employers have been collected,  
214 additional assessments shall be apportioned by the board among all  
215 members in proportion to their respective shares of the total health  
216 insurance premiums earned in this state from other individual and  
217 group plans and arrangements, exclusive of any individual Medicare  
218 supplement policies as defined in section 38a-495 during such calendar  
219 year. (C) Notwithstanding the provisions of this subdivision, the  
220 assessments to any one member under subparagraph (A) or (B) of this  
221 subdivision shall not exceed forty per cent of the total assessment  
222 under each subparagraph for the first fiscal year of the pool's operation  
223 and fifty per cent of the total assessment under each subparagraph for  
224 the second fiscal year. Any amounts abated pursuant to this  
225 subparagraph shall be assessed against the other members in a manner  
226 consistent with the basis for assessments set forth in this subdivision.

227 (3) If assessments exceed actual losses and administrative expenses  
228 of the pool, the excess shall be held at interest and used by the board to  
229 offset future losses or to reduce pool premiums. As used in this  
230 subsection, "future losses" includes reserves for incurred but not  
231 reported claims.

232 (4) Each member's proportion of participation in the pool shall be  
233 determined annually by the board based on annual statements and  
234 other reports deemed necessary by the board and filed by the member  
235 with it. Insurance arrangements shall report to the board claims  
236 payments made and administrative expenses incurred in this state on  
237 an annual basis on a form prescribed by the commissioner.

238 (5) Provision shall be made in the plan of operation for the  
239 imposition of an interest penalty for late payment of assessments.

240 (6) The board may defer, in whole or in part, the assessment of a  
241 health care center if, in the opinion of the board: (A) Payment of the  
242 assessment would endanger the ability of the health care center to  
243 fulfill its contractual obligations, or (B) in accordance with standards  
244 included in the plan of operation, the health care center has written,



245 and reinsured in their entirety, a disproportionate number of special  
 246 health care plans. In the event an assessment against a health care  
 247 center is deferred in whole or in part, the amount by which such  
 248 assessment is deferred may be assessed against the other members in a  
 249 manner consistent with the basis for assessments set forth in this  
 250 subsection. The health care center receiving such deferment shall  
 251 remain liable to the pool for the amount deferred. The board may  
 252 attach appropriate conditions to any such deferment.

253 (f) (1) Neither the participation in the pool as members, the  
 254 establishment of rates, forms or procedures nor any other joint or  
 255 collective action required by this section shall be the basis of any legal  
 256 action, criminal or civil liability or penalty against the pool or any of its  
 257 members.

258 (2) Any person or member made a party to any action, suit, or  
 259 proceeding because the person or member served on the board or on a  
 260 committee or was an officer or employee of the pool shall be held  
 261 harmless and be indemnified by the program against all liability and  
 262 costs, including the amounts of judgments, settlements, fines or  
 263 penalties, and expenses and reasonable attorney's fees incurred in  
 264 connection with the action, suit or proceeding. The indemnification  
 265 shall not be provided on any matter in which the person or member is  
 266 finally adjudged in the action, suit or proceeding to have committed a  
 267 breach of duty involving gross negligence, dishonesty, wilful  
 268 misfeasance or reckless disregard of the responsibilities of office. Costs  
 269 and expenses of the indemnification shall be prorated and paid for by  
 270 all members. The Insurance Commissioner may retain actuarial  
 271 consultants necessary to carry out his responsibilities pursuant to  
 272 sections 38a-564 to 38a-572, inclusive, as amended, and such expenses  
 273 shall be paid by the pool established in this section.

274 Sec. 2. (NEW) (*Effective October 1, 2006*) In the event an employer, as  
 275 defined in section 31-58 of the 2006 supplement to the general statutes,  
 276 terminates an employee for any reason other than lay off or an  
 277 employee voluntarily terminates his or her employment with an

278 employer, such employer shall not be responsible for the payment of  
 279 premium for such employee under a group health insurance policy  
 280 after the date of such employee's termination. Any insurer, health care  
 281 center, hospital or medical service corporation or fraternal benefit  
 282 society that issues such health insurance policy shall credit such  
 283 employer for the amount of any premium paid by such employer with  
 284 respect to such policy for such employee to the date of such employee's  
 285 termination.

286       Sec. 3. (*Effective July 1, 2006*) The sum of ten million dollars is  
 287 appropriated to the Insurance Department, from the General Fund, for  
 288 the fiscal year ending June 30, 2008, for purposes of a grant to the  
 289 Connecticut Small Employer Health Reinsurance Pool for the  
 290 implementation of the provisions of subparagraph (A) of subdivision  
 291 (1) of subsection (b) of section 38a-569, as amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2006</i>	38a-569
Sec. 2	<i>October 1, 2006</i>	New section
Sec. 3	<i>July 1, 2006</i>	New section

***INS***       *Joint Favorable*